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**COMMONWEALTH OF VIRGINIA, *ex rel.***

**STATE CORPORATION COMMISSION**

**v.**

**CASE NO. PUE-2000-00567**

**AUBON WATER COMPANY,  
Defendant**

**REPORT OF MICHAEL D. THOMAS, HEARING EXAMINER**

**February 21, 2003**

On October 16, 2000, the Commission entered a Rule to Show Cause against Aubon Water Company ("Aubon" or the "Company") for the Company to show cause why it should not be required to fund immediately the escrow account for the Long Island Estate's water treatment facility as ordered in the Commission's Final Order of December 17, 1999, in Case No. PUE-1999-00002.

On November 6, 2000, the Rule to Show Cause hearing was convened. The evidence adduced at the hearing showed that, as of October 31, 2000, the escrow account required by the Commission's Final Order of December 17, 1999, was deficient by the sum of \$4,984.75. The evidence further showed that the money that should have been deposited into the escrow account was used to defray the cost of purchasing water for the Company's Alton Park water system. The well serving the Alton Park subdivision had failed.

The Hearing Examiner assigned to this case issued his Report on January 24, 2001. He found the Company failed to make the required escrow account deposits, and recommended that the Commission enter an order requiring the Company to make the escrow account whole and enjoining both the Company and its officers from using the escrow account for any purpose other than that set forth in the Commission's Final Order of December 17, 1999.

By March 1, 2001, the shortfall in the escrow account had grown to \$14,288.59.

By Order entered March 1, 2001, in Case No. PUE-2001-00072, the Commission found that Aubon had been grossly mismanaged and had failed to comply with the Commission's Orders. The Commission appointed a Receiver to assume control of Aubon and manage the day-to-day operations of the Company.

On September 13, 2001, the Staff filed a Stipulation on Recommended Case Settlement (the "Stipulation"). In the Stipulation, it was represented that the Company was responsible for funding the shortage in the escrow account in the amount of \$14,288.59. It was further represented that Aubon owed an affiliate company, Boone Accounting, \$14,696.38 for accounting services

rendered.<sup>1</sup> In an effort to resolve the Company's liability for under-funding the escrow account, the Company, Boone Accounting, the Staff, and the Receiver proposed to offset the two debts. If approved by the Commission, the offset would constitute complete satisfaction of Aubon's liability for funding the shortage in the escrow account and extinguish any claim by Boone Accounting against Aubon for accounting services rendered.

By Order entered on October 24, 2001, the Commission suspended the procedural schedule in this case and continued the matter until further Commission order.

By Order entered January 2, 2003, the Commission consolidated Case No. PUE-2000-00567 with Case No. PUE-2001-00072 for the purpose of conducting a hearing to determine whether certain emergency rates implemented by the Receiver should be made permanent. As part of the proceeding, the Commission directed the Receiver to file a report with the Commission updating certain actions undertaken by the Receiver on the Company's behalf. The Commission further directed the Staff to review the actions taken by the Receiver and investigate the need for the emergency rate relief.

On February 5, 2003, a hearing was convened as scheduled in the consolidated cases. The Reports filed by both the Receiver and Staff were accepted into evidence. In its Report, the Staff recommended that the Commission approve the Stipulation and close this case. I find the Stipulation represents a reasonable means to settle the issue of the under-funded escrow account. Accordingly, **I RECOMMEND** the Commission enter an order approving the Stipulation, closing Case No. PUE-2000-00567, and passing the papers herein to the file for ended causes.

## **COMMENTS**

The parties are advised that any comments (Section 12.1-31 of the Code of Virginia and 5 VAC 5-20-120 C) to this Report must be filed with the Clerk of the Commission in writing, in an original and fifteen (15) copies, within ten (10) days from the date hereof. The mailing address to which any such filing must be sent is Document Control Center, P.O. Box 2118, Richmond, Virginia 23218. Any party filing such comments shall attach a certificate to the foot of such document certifying that copies have been mailed or delivered to all counsel of record and any such party not represented by counsel.

Respectfully submitted,

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Michael D. Thomas  
Hearing Examiner

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<sup>1</sup> Mr. G. Ray Boone was the president of Aubon as well as the sole proprietor of Boone Accounting.